

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH, 'DB': AGRA**

(Through Virtual hearing)

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI YOGESH KUMAR US, JUDICIAL MEMBER**

**ITA No.192/AGR/2019
[Assessment Year: 2010-11]**

Basant Makhija, Jai Gurudev Enterprises, Madhavganj Lashkar Gwalior Madhya Pradesh-474001	Vs	Income Tax Officer, Ward-2(2), Gwalior, Madhya Pradesh
PAN-ADYPM9235G		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Shailendra Srivastava, Sr. DR

Date of Hearing	05.12.2023
Date of Pronouncement	08.12.2023

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of the Ld. CIT(A), Gwalior, dated 01.04.2019 pertaining to Assessment Year 2010.11.

2. The grounds of appeal reads as under:-

“On the facts and circumstances of the case in confirming the addition of Rs.8,75,000/- in respect of difference in sale value and circle value without considering the facts and circumstances of case is illegal unjustified and bad in law.”

3. Brief facts of the case are that the Assessing Officer in this case made addition of Rs.8,75,000/- being the difference between fair market value adopted by Stamp Valuation Authority at Rs.1,28,75,000/- as against Rs.1,20,00,000/- shown as sale consideration in the registered sale deed.

4. Upon assessee's appeal, the Ld. CIT(A) confirmed the addition by observing as under:-

"I have duly considered the submission made by the appellant as well as facts of this case. There is no dispute that assessee had sold agricultural lands for total consideration of Rs.1,20,00,000/- and market value of the same was determined by Stamp Valuation Authority at Rs.1,28,75,000/- for stamp duty purpose. So, clearly provision of sec 50C are applicable in this case. During appellate proceedings, appellant has claimed that assessee raised an objection before AO that he has wrongly applied the provisions of Sec.50C without referring the matter to Valuation Officer. However, it is not discernible from the record as to whether at any time appellant raised any objection before AO against application of provision of Sec.50C of the Act or made any specific request for reference of the matter for valuation to DVO. This has been very clearly provided in Sec. 50C(2) of the Act that if assessee claims before AO that the value adopted or assessed/ assessable by Stamp Valuation Authority exceeds the fair market value of the property as on the date of transfer and value has not been disputed in any appeal or revision or no reference has been made before any authority/ court/ High Court, then the AO may refer the valuation of capital assets to Departmental Valuation Officer. It is not ascertainable from records that whether assessee at any time made such claim before AO about fair market value determined by Stamp Valuation Authority being excessive. In such a situation, AO was not bound to refer the matter of valuation to DVO. It has been held in the case of Shard Dinesh Photographer v/s ITO 43 SoT 452 (Mum); Ambattur Clothing Co. Ltd v/s ACIT 326 ITR 245 (Mad) holding that when assessee did not claim before AO that value adopted by Stamp Valuation Authority was more than the fair market value of said property, there is no need for AO to make reference to DVO. Besides this, the appellant has not furnished any details/evidence to establish that fair market value determined by Stamp Valuation Authority was excessive or unreasonable. Neither any independent valuation report from govt. registered valuer has been obtained & filed nor any comparable instances have been cited to prove that valuation done by Sub-registrar was not proper. It is well settled that provision of sec 50C has brought "deeming fiction" into play which does not require for AO to prove whether assessee

received any money over & above the consideration shown in sale deed or not. Having failed to do so, I find no merit in the objection of appellant regarding adoption of value determined by Stamp Valuation Authority which is considered as "deemed full value of consideration" u/s 50C of the Act for the purpose of determination of Capital Gain. Hence, addition of Rs.8,75,000/- is hereby confirmed and ground#182 of appeal are treated as dismissed."

5. We have heard the ld. DR and perused the records. None appeared on behalf of the assessee despite service of notice, hence; we proceed to adjudicate the issue after hearing the Ld. DR and perusing the records. We find that the Ld. CIT(A) have given correct finding that the difference between the valuation adopted by the Stamp Valuation Authority and the value actually transacted, is liable to be added as income of the assessee u/s 50C of the Act. Hence, we do not find any infirmity in the order of the Ld. CIT(A) and uphold the same.

6. In the result, the appeal of the assessee stands dismissed.

Order pronounced in the open court on 08th December, 2023.

Sd/-
[YOGESH KUMAR US]
JUDICIAL MEMBER

Delhi; 08.12.2023.

Shekhar,

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi